HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No.815 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants Claimants	:	1.	Smt. Vimla Agrawal W/o Late Shri Angira Prasad Agrawal, aged about 50 years;
	:	2.	Mukesh Agrawal S/o Late Shri Angira Prasad Agrawal, aged about 30 years;
	:	3.	Umesh Agrawal, S/o Late Shri Angira Prasad Agrawal, aged about 26 years;
			All Resident of Gandhi Mandir Ward, Bhatapara, District Raipur (C.G.).
		Versus	
Respondents	:	1.	Deepak Bhutda S/o Shri Anand Bhutda, aged about 35 years, Permanent R/o Luxmi Nagar, Bhilai, Police Station Nevai, District Durg (C.G.), Presently Residing at Belha, Police Station & Tahsil Belha, District Bilaspur (C.G.) (DRIVER OF OFFENDING HERO HOND NO. C.G.-010, ZE-05891)
	:	2.	Rajesh Agrawal, S/o Shri Gorakhnath Agrawal, R/o Belha, Police Station & Tahsil Belha, District Bilaspur (C.G.) (REGISTERED OWNER OF CRIMINAL HERO HOND NO.C.G. 010, ZE-05891
	:	3.	The Oriental Insurance Company Limited; Through: The Divisional Manager, The Oriental Insurance Company Limited, Raipur (C.G.)

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Shri Ashok Soni, Counsel for the appellants.

Shri Ali Asgar, Counsel assisted with Shri Prashant Jaiswal, Sr. Counsel, for respondent No.3

ORAL ORDER
(Passed on 2nd January, 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

1. This is an appeal preferred by the dependants for more compensation. It was contended that the documents produced in the case would go to show that the deceased was earning monthly income of Rs.7,000/-, but, the Motor Accidents Claims Tribunal (M.A.C.T.) has taken the monthly income of the deceased as Rs.6,000/- ignoring Ex.P.16 salary certificate for assessing the loss of dependency. It was also contended that the M.A.C.T. was not justified in not awarding any compensation under the conventional heads, such as loss of love and affection and loss of estate.

2. We do not find any merit in the first contention. Ex.P.16 is not taken into account by the M.A.C.T. for assessing the loss of dependency on the ground that Ex.P.16 is only a carbon copy of the income certificate and the claimants did not produce the original of the same. The above reason given by the M.A.C.T. cannot be condemned as perverse in the contest. We, however, find some force in the second contention of the learned counsel for the appellants. According to us, what is awarded towards loss of consortium to the widow of the deceased is on lower side. The M.A.C.T. ought to have awarded reasonable compensation towards loss of estate. Therefore, we award a sum of Rs.25,000/- to the widow of the deceased towards

loss of consortium and another sum of Rs.25,000/- towards loss of estate.

4. In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award sum of Rs.4,39,000/- under the following heads:

i)	Loss of dependency	...	Rs.3,84,000/-
ii)	Funeral Expenses	...	Rs. 5,000/-
iii)	Loss of Consortium	...	Rs. 25,000/-
iv)	Loss of estate	...	Rs. 25,000/-

		Total	Rs.4,39,000/-
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with interest at 9% per annum from the date of claim petition till payment.

4. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb
Deshmukh
Judge

Anjani